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74187 7590 03/24/2010 Carlson, Gasky, & Olds, P.C./Sikorsky 400 West Maple Road, Suite 350 Birmingham, MI 48009				
EXAMINER				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

At the outset, Applicant contended, *inter alia*, that Kanski's primary goal is vibration for the treatment of granular materials (Amend. p. 2). However, Kanski's goal is not so limited. Indeed, as quoted by Applicant, Kanski expressly states: "Generally defined, the object of the present invention is to propose a simple apparatus by means of which it is possible to obtain a complex vibratory motion, substantially a combination of a simple gyratory vibration with a vibration produced by a mass center provided with a planetary motion." (Kanski 1:1-9). Put differently, Kanski's general purpose covers Applicant's purpose.

Second, Applicant asserted that Maslov is directed only to adaptive electric motors which provide performance and efficiency, thus, the combination of Kanski and Maslov would still generate vibration with adjustable characteristics as desired by Kanski.

It is well settled that nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *In re Merck & Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). In making a determination with regard to obviousness, the inquiry is not limited to looking only at the problem Applicant was trying to solve. The question is not whether the combination was obvious to Applicant but whether it was obvious to a person of ordinary skill in the art. Thus, "[u]nder the correct analysis, any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed." *KSR Int'l. Co. v. Teleflex Inc.*, 550 U.S. 398, 420 (2007). More importantly, the reason to combine prior art references does not have to be identical to that of the Applicant in order to establish obviousness. *KSR*, 127 S. Ct. at 1743, 82 USPQ2d at 1398; *In re Kemps*, 97 F.3d 1427, 1430, 40 USPQ2d 1309, 1311 (Fed. Cir. 1996). In obviousness determinations, all of the features of the secondary reference

need not be bodily incorporated into the primary reference. *In re Keller*, 642 F.2d 413,425 (CCPA 1981). The artisan is not compelled to blindly follow the teaching of one prior art reference over the other without the exercise of independent judgment. *Lear Siegler, Inc. v. Aeroquip Corp.*, 733 F.2d 881, 889 (Fed. Cir. 1984).

A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem. In other words, 'familiar items may have obvious uses beyond their primary purposes.'

In re ICON Health and Fitness, Inc., 496 F.3d 1374, 1379-80 (Fed. Cir. 2007).

Applying the above principle of law, even if Maslov's sensor systems are motor operation sensors as Applicant alleged, however, Maslov teaches the use of sensor system in communication with the processor as claimed (Maslov, FIGS. 16 and 20; ¶¶ 170, 171, 239, 241, 244, 245, 258, and 259), thus, the combination is proper.

Third, Applicant contended that Maslov's sensors simply are not operable to sense externally generated vibratory forces. (Amend. p. 3)

The Examiner respectfully submits that Applicant's arguments are unsupported by substantial evidence in the record. In fact, Maslov's sensors are operable to operable to sense externally generated vibratory forces as disclosed in ¶ 38 of Maslov.

Fourth, Applicant alleged that the proposed modification would ruin the function of Maslov because the Examiner is essentially removing the sensor system from Maslov which provides for the basic operation of the Maslov electric motor. (Amend. p. 4)

Applicant's instant arguments do not consider the prior art in its entirety. See MPEP § 2141.03. The combination of Kanski and Maslov would not ruin the function of Maslov

because, *inter alia*, Kanski also uses the motor (Kanski, p. 4, right col., ll. 34-36). Common sense or common knowledge in the art teaches that Kanski's motor broadly includes the electric motor. See *Perfect Web Technologies Inc. v. InfoUSA Inc.*, 92 USPQ2d 1849 (Fed. Cir. 2009).

Finally, with respect to Applicant's hindsight arguments (Amend. p. 4), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Notwithstanding the above law, hindsight is eliminated in the instant case since Kanski and Maslov are not only in the same field of endeavor but also solve the same problem in substantially the same way.

In view of the foregoing, Applicant's request for allowance is respectfully declined.